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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/667,176

09/17/2003

John L. White

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8586

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EXAMINER

TRUONG, THANH K

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

10/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/667,176

**Applicant(s)**

WHITE, JOHN L.

**Examiner**

Thanh K. Truong

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,8,9,12,13,15,18,19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,8,9,12,13,15,18,19 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to applicant's amendment received on January 18, 2007.
2. Applicant's cancellation of claims 2, 3, 7, 10, 11, 14, 16, 17 and 20 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Fleishman et al. (4,421,180).

Fleishman et al. discloses an apparatus and a method comprising:

a housing member (21) defining a housing chamber (the space between the housing and the ram member); a ram member (17) supported within the housing chamber for movement relative to the housing member between an upper position and a lower position; and a vent port (33) arranged between the lower and upper positions, where the vent port defines a preload position, and allows ambient air to flow into and out of the housing chamber under predetermined conditions (column 4, lines 9-13);

a helmet member (19, 27) supported by the housing member for movement relative to the housing member between a rest position and an impact position; and

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a lifting assembly (65, 67) at least partly disposed within the housing chamber above the ram member, and engages the ram member to lift the ram member from the lower position to the upper position during each cycle; whereby

the lifting assembly

when the lifting system raises the ram member above the preload position, ambient air flows into the housing chamber;

when the ram member falls below the preload position, ambient air within a preload chamber portion of the housing chamber compresses to apply a preload force on the inner portion of the helmet member (figure 5); and

when the ram member moves into the lower position, the ram member impacts the helmet member to force the helmet member from the rest position to the impact position, thereby driving the pile.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 6, 8, 9, 15, 18, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleishman et al. (4,421,180) in view of Scheid et al. (6,102,133).

As discussed above in paragraph 4 of this office action, Fleishman et al. discloses the claimed invention, but it does not expressly disclose a seal system for sealing the preload chamber portion of the housing chamber.

Scheid et al. discloses a seal system for sealing the preload chamber portion of the housing chamber when the ram member is below the preload position (figure 1 of Scheid et al. shows ram 26 and helmet member 12 have seal members at their distal ends). Scheid et al. sealing system provides an airtight chamber within the housing below the sealing system of the ram. Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Fleishman et al. by incorporating the seal system as taught by Scheid et al. to provide an airtight chamber within the housing below the sealing system of the ram.

The modified Fleishman et al. by Scheid et al. further discloses: air is prevented from flowing through the vent port when the ram member is below the preload position (Scheid et al. - column 7, lines 17-20); and the ram member defines a ram side wall; the housing member defines a housing interior wall; the seal system comprises a ram seal for inhibiting fluid flow between the ram side wall and the housing interior wall; the pile is being secured by the drop hammer by clamp (25) in order for the pile to be driven into the ground; and the ram member moves from the lower position to the upper position and back to the lower position to define an operating cycle; the lifting assembly engages and lifts the ram member from the lower position to the upper position once during each operating cycle.

***Response to Arguments***

7. Applicant's arguments filed January 18, 2007 have been considered but are moot in view of the new ground(s) of rejection.

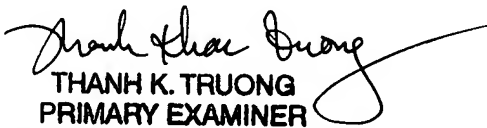
***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tkf  
October 3, 2007.

  
THANH K. TRUONG  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3700